

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

KATRINA MARIE DYKES, Respondent

Pharmacy Technician Registration No. TCH 181671

Agency Case No. 7271

DECISION AND ORDER

The attached Stipulated Surrender of License Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on September 28, 2022.

It is so ORDERED on August 29, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh".

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 ANDREW M. STEINHEIMER
Supervising Deputy Attorney General
3 SETH A. CURTIS
Deputy Attorney General
4 State Bar No. 236263
1300 I Street, Suite 125
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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 7271

13 **KATRINA MARIE DYKES**

14 14644 Bridgeport Circle
Magalia, CA 95954

15 **Pharmacy Technician Registration No. TCH**
16 **181671**

Respondent.

STIPULATED SURRENDER OF
LICENSE AND ORDER

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
22 (Board). She brought this action solely in her official capacity and is represented in this matter by
23 Rob Bonta, Attorney General of the State of California, by Seth A. Curtis, Deputy Attorney
24 General.

25 2. Katrina Marie Dykes (Respondent) is representing herself in this proceeding and has
26 chosen not to exercise her right to be represented by counsel.

27 3. On or about April 6, 2021, the Board issued Pharmacy Technician Registration No.
28 TCH 181671 to Respondent. The Pharmacy Technician Registration was in full force and effect

1 at all times relevant to the charges brought in Accusation No. 7271 and will expire on December
2 31, 2022, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 7271 was filed before the Board, and is currently pending against
5 Respondent. The Accusation and all other statutorily required documents were properly served
6 on Respondent on May 20, 2022. Respondent timely filed her Notice of Defense contesting the
7 Accusation. A copy of Accusation No. 7271 is attached as Exhibit A and incorporated by
8 reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 7271. Respondent also has carefully read, and understands the effects of this
12 Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
15 her own expense; the right to confront and cross-examine the witnesses against her; the right to
16 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
17 compel the attendance of witnesses and the production of documents; the right to reconsideration
18 and court review of an adverse decision; and all other rights accorded by the California
19 Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 7271, agrees that cause exists for discipline, and hereby surrenders her Pharmacy Technician
25 Registration No. TCH 181671 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation she enables the Board to issue
27 an order accepting the surrender of her Pharmacy Technician Registration without further
28 process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 181671, issued to Respondent Katrina Marie Dykes, is surrendered and accepted by the Board.

1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a pharmacy technician in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time of the application or petition is filed, and all of the charges and allegations contained in Accusation No. 7271 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. Respondent may not petition for any license, permit, or registration from the Board for three years from the effective date of this decision.

6. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$4,768.50 prior to issuance of a new or reinstated license.

7. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 7271 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

KATRINA MARIE DYKES
Respondent

///

2. Respondent shall lose all rights and privileges as a pharmacy technician in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 7/3/2022

Katrina M. Dykes
KATRINA MARIE DYKES
Respondent

///

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
ANDREW M. STEINHEIMER
Supervising Deputy Attorney General

SETH A. CURTIS
Deputy Attorney General
Attorneys for Complainant

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: July 5, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
ANDREW M. STEINHEIMER
Supervising Deputy Attorney General

Seth Curtis

SETH A. CURTIS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 7271

1 ROB BONTA
Attorney General of California
2 ANDREW M. STEINHEIMER
Supervising Deputy Attorney General
3 SETH A. CURTIS
Deputy Attorney General
4 State Bar No. 236263
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12 In the Matter of the Accusation Against:

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13 **KATRINA MARIE DYKES**

14 14644 Bridgeport Circle
Magalia, CA 95954

ACCUSATION

15 **Pharmacy Technician Registration No.**
16 **TCH 181671**

17 Respondent.

18
19 **PARTIES**

20 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

22 2. On or about April 6, 2021, the Board issued Pharmacy Technician Registration
23 Number TCH 181671 to Katrina Marie Dykes (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on December 31, 2022, unless renewed.

26 ///

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 4300 of the Code states, in pertinent part:

(a) Every license issued may be suspended or revoked.

...

5. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

6. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made

1 suspending the imposition of sentence, irrespective of a subsequent order under
2 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
3 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
4 dismissing the accusation, information, or indictment.

5 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
6 abetting the violation of or conspiring to violate any provision or term of this chapter
7 or of the applicable federal and state laws and regulations governing pharmacy,
8 including regulations established by the board or by any other state or federal
9 regulatory agency.

10 (p) Actions or conduct that would have warranted denial of a license.

11 7. Section 4059 of the Code states:

12 (a) A person may not furnish any dangerous drug, except upon the prescription
13 of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
14 pursuant to Section 3640.7. A person may not furnish any dangerous device, except
15 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
16 naturopathic doctor pursuant to Section 3640.7.

17 (b) This section does not apply to the furnishing of any dangerous drug or
18 dangerous device by a manufacturer, wholesaler, or pharmacy to each other or to a
19 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
20 pursuant to Section 3640.7., or to a laboratory under sales and purchase records that
21 correctly give the date, the names and addresses of the supplier and the buyer, the
22 drug or device, and its quantity. This section does not apply to the furnishing of any
23 dangerous device by a manufacturer, wholesaler, or pharmacy to a physical therapist
24 acting within the scope of his or her license under sales and purchase records that
25 correctly provide the date the device is provided, the names and addresses of the
26 supplier and the buyer, a description of the device, and the quantity supplied.

27 (c) A pharmacist, or a person exempted pursuant to Section 4054, may
28 distribute dangerous drugs and dangerous devices directly to dialysis patients
pursuant to regulations adopted by the board. The board shall adopt any regulations
as are necessary to ensure the safe distribution of these drugs and devices to dialysis
patients without interruption thereof. A person who violates a regulation adopted
pursuant to this subdivision shall be liable upon order of the board to surrender his or
her personal license. These penalties shall be in addition to penalties that may be
imposed pursuant to Section 4301. If the board finds any dialysis drugs or devices
distributed pursuant to this subdivision to be ineffective or unsafe for the intended
use, the board may institute immediate recall of any or all of the drugs or devices
distributed to individual patients.

(d) Home dialysis patients who receive any drugs or devices pursuant to
subdivision (c) shall have completed a full course of home training given by a dialysis
center licensed by the State Department of Health Services. The physician
prescribing the dialysis products shall submit proof satisfactory to the manufacturer
or wholesaler that the patient has completed the program.

(e) A pharmacist may furnish a dangerous drug authorized for use pursuant to
Section 2620.3 to a physical therapist. A record containing the date, name and
address of the buyer, and name and quantity of the drug shall be maintained. This
subdivision shall not be construed to authorize the furnishing of a controlled
substance.

1 (f) A pharmacist may furnish electroneuromyographic needle electrodes or
2 hypodermic needles used for the purpose of placing wire electrodes for kinesiological
3 electromyographic testing to physical therapists who are certified by the Physical
4 Therapy Examining Committee of California to perform tissue penetration in
5 accordance with Section 2620.5.

6 (g) Nothing in this section shall be construed as permitting a licensed physical
7 therapist to dispense or furnish a dangerous device without a prescription of a
8 physician, dentist, podiatrist, optometrist, or veterinarian.

9 (h) A veterinary food-animal drug retailer shall dispense, furnish, transfer, or
10 sell veterinary food-animal drugs only to another veterinary food-animal drug retailer,
11 a pharmacy, a veterinarian, or to a veterinarian's client pursuant to a prescription
12 from the veterinarian for food-producing animals.

13 8. Section 4060 of the Code states:

14 No person shall possess any controlled substance, except that furnished to a
15 person upon the prescription of a physician, dentist, podiatrist, optometrist,
16 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
17 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
18 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
19 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
20 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
21 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
22 shall not apply to the possession of any controlled substance by a manufacturer,
23 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
24 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
25 physician assistant, when in stock in containers correctly labeled with the name and
26 address of the supplier or producer.

27 Nothing in this section authorizes a certified nurse-midwife, a nurse
28 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
stock of dangerous drugs and devices.

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
administrative law judge to direct a licensee found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case, with failure of the licensee to comply subjecting the license to not being
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

CONTROLLED SUBSTANCE/DANGEROUS DRUGS

10. Methadone is a Schedule II controlled substance as defined in Health and Safety
Code section 11055, and is categorized as a dangerous drug pursuant to Code section 4022.

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FACTUAL ALLEGATIONS

11. On or about December 20, 2021, the Board received a Report of Theft and Loss of Controlled Substances, form DEA-106, from Rite Aid Pharmacy #6548 located in Magalia, CA (Rite Aid #6548).

12. The Report alleged that on or about November 18, 2021, Respondent was seen on video surveillance taking a methadone tablet from a patient's prescription vial at the drive through window on November 7, 2021.

13. On or about January 3, 2022, the Board requested Rite Aid #6548 and Rite Aid #6548's Pharmacist-in-Charge (PIC) D.N. to provide a detailed explanation of the circumstances of the theft and Rite Aid #6548's documentary evidence.

14. On or about January 14, 2022, the Board received Rite Aid #6548's explanation and documentation.

15. The circumstances of the theft are that on or about November 7, 2021, the Regional Asset Protection Leader A.P., received an email from Rite Aid #6548 PIC D.N. involving prescription number 9499371. Prescription 9499371 was for 60 methadone 5mg tablets for a patient. Later that same day, the patient's son-in-law and another family member came through the drive-thru to pick up the prescription. As PIC D.N. was coming over for a consult, the son-in-law motioned for Respondent to return to the drive thru window and asked her to hold onto the prescription as he wanted to come inside to talk to her.

16. When the son-in-law came inside, he told PIC D.N. that they witnessed Respondent open the prescription vial and appear to remove something from it. PIC D.N. counted the tablets 3 times and found that it was one short. A new prescription was then prepared for the patient.

17. Later that day, PIC D.N. spoke with Respondent who denied the incident. Respondent was advised the incident would be investigated and that the video footage would be reviewed.

18. On or about November 10, 2021, A.P. interviewed Respondent with Rx Shrink Investigator L.R. Respondent wrote a statement admitting that she took one tablet of methadone. Respondent was aware of Rite Aid #6548's controlled substance diversion policy but stole the tablet anyways stating that she had a bad week and was stressed. A.P. then contacted the Butte

1 County Sheriff's Department who later arrived and placed Respondent under arrest for a violation
2 of Penal Code section 484, subdivision (a), petty theft, and a violation of Health and Safety Code
3 1350, subdivision (a), possession of a controlled substance. While talking with Butte County
4 Sheriff's Officer J.A., Respondent admitted to knowing that the pill was an opioid, that she took
5 one pill and, later when she arrived at her residence, she consumed the Methadone pill.

6 19. The surveillance video shows Respondent taking the prescription which was in a clear
7 plastic hanging bag and while holding the vial, turning with her back facing the drive-thru
8 window opening the prescription vial, taking a tablet and then placing a tablet in her back pocket.

9 20. On or about March 3, 2022, Respondent, in the criminal proceeding entitled *People v.*
10 *Katrina Marie Dykes*, Butte County Superior Court, Case No. 21CM06356, was convicted on her
11 plea of *nolo contendere* of violating Penal Code section 484(a)/488/490.5(a), petty theft, a
12 misdemeanor. As a result, Respondent was sentenced to probation for a period of one year,
13 ordered to comply with various terms of probation including, but not limited to, refraining from
14 the use, control, or possession of any controlled substance and alcohol, to submit to search for
15 drugs or paraphernalia. Respondent was also ordered to pay various fines and fees.

16 **FIRST CAUSE FOR DISCIPLINE**

17 (Unlawful Possession of a Controlled Substance)

18 21. Respondent is subject to disciplinary action under Code section 4059, subdivision (a),
19 in conjunction with Code section 4060, in that Respondent, while working as a Pharmacy
20 Technician at Rite Aid removed a prescription 5mg methadone tablet from a patient's prescription
21 vial prior to furnishing it when Respondent did not have an active prescription for the controlled
22 substance.

23 **SECOND CAUSE FOR DISCIPLINE**

24 (Unprofessional Conduct)

25 22. Respondent is subject to disciplinary action for unprofessional conduct under Code
26 section 4301, subdivisions (f), (j), and (o), in that Respondent, while working as a Pharmacy
27 Technician at Rite Aid, removed a prescription 5mg methadone tablet from a patient's
28

1 prescription vial and placed the tablet in her pocket prior to furnishing the prescription when
2 Respondent did not have an active prescription for the controlled substance.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Criminal Conviction)

5 23. Respondent is subject to disciplinary action for unprofessional conduct under Code
6 section 4301, subdivisions (I), in that on or about March 3, 2022, Respondent, in the criminal
7 proceeding entitled *People v. Katrina Marie Dykes*, Butte County Superior Court, Case No.
8 21CM06356, was convicted of violating Penal Code section 484(a)/488/490.5(a), petty theft, a
9 misdemeanor, as more thoroughly set forth in paragraph 20 and incorporated herein by reference.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Pharmacy issue a decision:

13 1. Revoking or suspending Pharmacy Technician Registration Number TCH 181671,
14 issued to Katrina Marie Dykes;

15 2. Ordering Katrina Marie Dykes to pay the Board of Pharmacy the reasonable costs of
16 the investigation and enforcement of this case, pursuant to Business and Professions Code section
17 125.3; and,

18 3. Taking such other and further action as deemed necessary and proper.

19
20 DATED: 5/18/2022

Signature on File

21 ANNE SODERGREN
22 Executive Officer
23 Board of Pharmacy
24 Department of Consumer Affairs
25 State of California
26 Complainant

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